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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,509	05/01/2001	Mark L. Binette	P-5087-C1-C1	5505

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EXAMINER

GORDON, RAEANN

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 09/12/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/846,509

Applicant(s)

BINETTE ET AL.

Examiner

Raeann Gorden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 28-45 and 47-123 is/are pending in the application.
- 4a) Of the above claim(s) 44,54-61,81-89,112 and 116-123 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☒ Claim(s) 38,45,50,71,77,100,105 and 110 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Continuation of Disposition of Claims: Claims rejected are 28-37,39-43,47-49,51-53,62-70,72-76,78-80,90-99,101-104,106-109 and 113-115.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28-37, 39, 40, 42, 43, 47-49, 51-53, 62-70, 72, 74-76, 78-80, 90-99, 101, 103, 104, 106-109, 111, and 113-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terence et al (4,844,471) in view of Nesbitt (4,431,193) and Saito (4,858,924). Regarding claim 28, Terence discloses a golf ball comprising a core and at least one cover layer. The solid core layer comprises fillers (col. 2, line 60). The total thickness of the cover layer is from 0.05 to 0.250 inch (col. 4, lines 26-29). Terence does not disclose a two-layer core. However, Saito teaches a golf ball comprising a one or two layer core (fig 2). Terence discloses the cover layer is made from a copolymer of ethylene or methacrylic acid neutralized from about 15 to about 60 with metals such as, sodium, potassium, zinc, etc(col. 4, lines 30-37). However, Terence does not disclose the Shore D hardness of the layer(s). Nesbitt teaches Surlyn 1605 (sodium) for a cover material, which has a Shore D hardness of 62 and a 15% acid content (see Yabuki 6,359,066 col. 11, lines 53-57 for Surlyn properties). Regarding claim 29, Terence discloses the core layer is made from polybutadiene (col. 1, line 56). Regarding claims 30 and 31, the polybutadiene has a molecular weight from 100,000 to 500,000 (col. 1,

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lines 65-67). Regarding claim 32, the core includes 20 parts of zinc stearate (table). Regarding claim 33, the core comprises 0.3 to 3 parts of a free radical initiator (col. 2, lines 40-55). Regarding claim 34, Saito teaches a core diameter from 1.45 to 1.61 inches (col 4, lines 58-59). Regarding claim 36, Saito teaches the core has a weight from 34.5 to 43.5 grams (col. 4, lines 58-59). Regarding claim 37, the lower weight from 16.5 to 30 grams is an obvious modification within the capabilities of one skilled in the art. Since the core layers include fillers the weight can obviously be adjusted. Regarding claim 39, Terence discloses the core layers comprise polybutadiene crosslinked with an unsaturated carboxylic acid (col. 2, lines 1-2). Regarding claim 40, Terrance discloses the at least one cover layer made from a copolymer. Regarding claim 42, Terence discloses the core made from peroxide (table 1). Regarding claim 43, the peroxide includes dicumyl peroxide (col. 2, lines 47). Regarding claims 47 and 48, Terence discloses the fillers in the core layer may have a mesh size less than 30 and preferably less than 100 (col. 2, lines 60-65). Regarding claim 49, Terence discloses the core layer has a PGA compression of 50, 60, and 62 (table). Regarding claim 51, Nesbitt teaches Surlyn 1605 (sodium) for a cover material, which has a Shore D hardness of 62. Regarding claim 52, Terence does not disclose a difference between the at least one cover layer and the additional cover layers therefore applicant's difference in hardness of no more than 5 is satisfied. Regarding claim 53, Terence discloses the total thickness of the cover layer from 0.05 to 0.250 inch (col. 4, lines 26-29). Regarding claims 62 and 90, Terence discloses a golf ball comprising a core and at least one cover layer. The core is made from polybutadiene. The total thickness of

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the cover layer is from 0.05 to 0.250 inch (col. 4, lines 26-29). Terence does not disclose a two-layer core. However, Saito teaches a golf ball comprising a one or two layer core (fig 2). Terence discloses the cover layer is made from a copolymer of ethylene or methacrylic acid neutralized from about 15 to about 60 with metals such as, sodium, potassium, zinc, etc(col. 4, lines 30-37). However, Terence does not disclose the Shore D hardness of the layer(s). Nesbitt teaches Surlyn 1605 (sodium) for a cover material, which has a Shore D hardness of 62 and a 15% acid content (see Yabuki 6,359,066 col 11, lines 53-57 for Surlyn properties. Terence further discloses the core has a COR of at least 70% and gives examples of 0.797, 0.796, etc. Since the COR for the core is within applicant's range and the cover materials are the same the COR for the golf ball would also be the same. Claims 63-70, 72, 74-76, 78-80, 91-99, 101, 103, 104, 106-109, 111, and 113-115 are also rejected. See dependent claims above for explanation. One of ordinary skill in the art would have modified the golf ball of Terence with the two-layer core of Saito and the cover material of Nesbitt for increased durability of the golf ball.

Claims 41, 73, and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terence et al (4,844,471) in view of Nesbitt (4,431,193) and Saito (4,858,924) as applied to claims 28, 62 and 90 and further in view of Tomita et al (4,696,475). Terence discloses a peroxide cured core but does not disclose a core cured with sulfur. Tomita teaches a core that may be blended with well known vulcanizing agents such as sulfur and peroxide (col. 3, lines 60-65). One of ordinary

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skill in the art would used a sulfur as oppose to peroxide to increase the strength of the core.

***Allowable Subject Matter***

Claims 38, 45, 50, 71, 77, 100, 105, and 110 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 28-43 and 45-53 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Raeann Gordon  
Examiner  
Art Unit 3711

rg  
July 31, 2003